

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
DOMINGO CASTILLO MARCELINO,  
*individually and on behalf of others*  
*similarly situated,*

16 Civ. 06287 (KPF)

*Plaintiff,*

--against--

374 FOOD INC., HAYIM TSADOK and  
TIRAN TSADOK,

*Defendants.*

-----X

**AFFIRMATION ATTACHING EXHIBITS  
TO MEMORANDUM OF LAW IN SUPPORT  
OF DEFENDANTS' MOTION TO DISQUALIFY  
ATTORNEYS REPRESENTING PLAINTIFF'S COUNSEL**

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true  
and correct:

1. As Exhibit 1, I have attached a true and correct copy of cover page and signature page to memorandum of law in opposition signed and filed by Michael Ross in Lawrence v. City of New York, No. 15 Civ. 8947 (S.D.N.Y.).
2. As Exhibit 2, I have attached a true and correct copy of portions of the docket totaling 11 pages from Binday as referred to in Mr. Ross's affirmation, Dkt #98 ¶ 2.
3. As Exhibit 3, I have attached a true and correct copy of a screen shot of PACER taken on April 9, 2019, showing that Michael Faillace is listed on PACER as a "party" under the heading "Select the Party."

/s/ Brian Lehman  
Brian Lehman

Executed on: April 9, 2019  
New York, New York

# Exhibit 1

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
ANGELA LAWRENCE,

15 Civ. 8947 (WHP) (AJP)

Plaintiff,

MEMORANDUM OF LAW

CITY OF NEW YORK, DANIEL NUNEZ, Individually,  
DANIEL BEDDOWS, Individually, JUAN RODRIGUEZ,  
Individually, JENS MALDONADO, Individually, JOHN  
ANZELINO, Individually, and MICHAEL RASO,  
Individually,

Defendants.  
-----X

**MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS’  
MOTION FOR SANCTIONS AND ATTORNEYS’ FEES AND COSTS**

**LAW OFFICES OF MICHAEL S. ROSS  
60 EAST 42<sup>ND</sup> STREET  
FORTY-SEVENTH FLOOR  
NEW YORK, NEW YORK 10165  
(212) 505-5200**

Dated: New York, New York  
May 15, 2018

Respectfully submitted,

s/Michael S. Ross  
Michael S. Ross, Esq. (MSR-3626)  
Law Offices of Michael S. Ross  
*Counsel to Jason L. Leventhal, Esq.*  
60 East 42<sup>nd</sup> Street, 47<sup>th</sup> Floor  
New York, New York 10165  
Tel.: (212) 505-4060  
Fax: (212) 505-4054  
michaelross@rosslaw.org

Eugene Gormakh, Esq.  
*Of Counsel*

# Exhibit 2

**U.S. District Court  
Southern District of New York (Foley Square)  
CRIMINAL DOCKET FOR CASE #: 1:12-cr-00152-CM-1**

Case title: USA v. Bindow et al  
Related Case: [1:17-cv-04723-CM](#)

Date Filed: 02/15/2012  
Date Terminated: 07/31/2014

Assigned to: Judge Colleen McMahon

**Defendant (1)**

**Michael Bindow**

*TERMINATED: 07/31/2014*  
*also known as*  
*Sealed Defendant 1*  
*TERMINATED: 07/31/2014*

represented by **Andrew James Frisch**  
Andrew J. Frisch  
40 Fulton Street, 23rd Floor  
New York, NY 10022  
(212)-285-8000  
Fax: (212)-304-0352  
Email: afrisch@andrewfrisch.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

**Andrew McCutcheon Lankler**  
Baker Botts , L.L.P.(NYC)  
30 Rockefeller Plaza  
New York, NY 10112  
212-408-2500  
Fax: 212-408-2501  
Email: andrew.lankler@bakerbotts.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**David William Shapiro**  
Boies, Schiller & Flexner, LLP(CA)  
1999 Harrison Street, Suite 900  
Oakland, CA 94568  
(510)-874-1000  
Fax: (510)-874-1460  
Email: dshapiro@boerschshapiro.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

**Elkan Abramowitz**  
Morvillo, Abramowitz, Grand, Iason, &  
Anello P.C.  
565 5th Avenue  
New York, NY 10017  
(212) 880-9300

Fax: (212) 856-9494  
Email: JJUTEAU@MAGLAW.COM  
*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

**Jeremy B. Sporn**

The Law Offices of Andrew J. Frisch  
40 Fulton Street  
New York, NY 10038  
(212)-285-8000  
Fax: (646)-304-0352  
Email: jsporn@andrewfrisch.com  
*ATTORNEY TO BE NOTICED*

**Matthew J. Gaul**

Steptoe & Johnson LLP  
750 Seventh Avenue  
New York, NY 10019  
(212) 506-3939  
Fax: (212) 506-3950  
Email: mgaul@steptoe.com  
*ATTORNEY TO BE NOTICED*

**Michael Campion Miller**

Steptoe & Johnson, LLP (NYC)  
1114 Avenue of the Americas  
New York, NY 10036  
(212) 506-3900  
Fax: (212) 506-3950  
Email: mmiller@steptoe.com  
*ATTORNEY TO BE NOTICED*

**Michael Steven Ross**

Law Offices of Michael S. Ross  
60 East 42nd Street, Fl. 47  
New York, NY 10165  
(212)-505-4060  
Fax: (212)-505-4054  
Email: michaelross@rosslaw.org  
*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

**Steven Leigh Kessler**

Law Offices of Steven L. Kessler  
100 Park Avenue, 34th Floor  
New York, NY 10017  
212 661 1500  
Fax: 212 297 0777  
Email: stevenkessler@msn.com  
*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

**Valerie A Haggans**

Goodwin Procter, LLP (NYC)

**Highest Offense Level (Terminated)**

Felony

**Complaints**

None

**Disposition****Interested Party****John Hancock Life Insurance Company  
(U.S.A.)**represented by **John Francis La Salle , III**  
Boies Schiller Flexner LLP  
55 Hudson Yards  
New York, NY 10001  
212-446-2300  
Email: jlasalle@bsflp.com  
*ATTORNEY TO BE NOTICED***Interested Party****Security Mutual Life Insurance Company  
of New York**represented by **Anthony Mathias Candido**  
Clifford Chance US, LLP (NYC)  
31 West 52nd Street  
New York, NY 10019  
(212)-878-3140  
Fax: (212)-878-8375  
Email:  
anthony.candido@cliffordchance.com  
*ATTORNEY TO BE NOTICED***Interested Party****AXA Equitable Life Insurance Company**represented by **Larry Howard Krantz**  
Krantz & Berman LLP  
747 Third Avenue  
32nd. Floor  
New York, NY 10017  
212-661-0009  
Fax: 212-335-5009  
Email: lkrantz@krantzberman.com  
*ATTORNEY TO BE NOTICED***Interested Party****Lincoln National Corporation**represented by **Andrew M. Genser**  
Viking Global Investors LP  
280 Park Ave  
New York, NY 10017  
203-863-5000  
Fax: 203-863-5001

United States Attorney Office, SDNY  
 One Saint Andrew's Plaza  
 New York, NY 10007  
 (212) 637-2187  
 Fax: (212) 637-3290  
 Email: eun.young.choi@usdoj.gov  
**ATTORNEY TO BE NOTICED**

**Justina Louise Geraci**  
 United States Attorney Office, SDNY  
 One Saint Andrew's Plaza  
 New York, NY 10007  
 (212)-637-2468  
 Fax: (212) 637-2527  
 Email: Justina.Geraci@USDOJ.GOV  
**ATTORNEY TO BE NOTICED**

**Paul Michael Monteleoni**  
 U.S. Attorney's Office, SDNY (St Andw's)  
 One St. Andrew's Plaza  
 New York, NY 10007  
 (212)-637-2200  
 Fax: (212)-637-2527  
 Email: paul.monteleoni@usdoj.gov  
**ATTORNEY TO BE NOTICED**

**Sarah Kathleen Eddy**  
 U.S. Attorney's Office, SDNY (St Andw's)  
 One St. Andrew's Plaza  
 New York, NY 10007  
 (212)-637-1033  
 Fax: (212)-637-2429  
 Email: sarah.eddy@usdoj.gov  
**ATTORNEY TO BE NOTICED**

**Zachary Feingold**  
 U.S. Attorney's Office, SDNY (St Andw's)  
 One St. Andrew's Plaza  
 New York, NY 10007  
 (212)-637-2200 x2436  
 Fax: (212)-637-2937  
 Email: zachary.feingold@usdoj.gov  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
02/15/2012	<a href="#"><u>1</u></a>	SEALED INDICTMENT as to Sealed Defendant 1 (1) count(s) 1, 2, 3, 5, Sealed Defendant 2 (2) count(s) 1, 2, 3, 4, Sealed Defendant 3 (3) count(s) 1, 2, 3, 4. (jm) (Entered: 02/16/2012)
02/16/2012	<a href="#"><u>2</u></a>	Order to Unseal Indictment as to Sealed Defendant 1, Sealed Defendant 2, Sealed Defendant 3. (Signed by Magistrate Judge Gabriel W. Gorenstein on 2/16/12)(jm) (Entered: 02/16/2012)

03/11/2013	<a href="#"><u>118</u></a>	NOTICE OF ATTORNEY APPEARANCE: Michael Steven Ross appearing for Michael Binday. Appearance Type: Retained. Appearance for Steptoe & Johnson LLP, counsel for defendant Michael Binday (Ross, Michael) (Entered: 03/11/2013)
03/11/2013		Minute Entry for proceedings held before Judge Colleen McMahon: Status Conference as to Michael Binday, James Kevin Kergil, Mark Resnick held on 3/11/2013. Defendant Binday present with his attorney Michael Miller; defendant Kergil present with his attorney Roger Stavis; defendant Resnick present (via telephone) with his attorney Jane Anne Murray (via telephone); AUSAs Zachary Feingold & Sarah McCallum; and court reporter Michael McDaniel. Court holds conference to discuss conflict issue and hear argument regarding Mr. Millers motion to withdraw as counsel for defendant Binday. Court reserves decision. (jbo) (Entered: 03/12/2013)
03/14/2013	<a href="#"><u>119</u></a>	Letter by Michael Binday addressed to Judge Colleen McMahon from Michael C. Miller dated 2/27/2013 re: potential conflict of interest.. (mde) . (mde). (Entered: 03/14/2013)
03/14/2013	<a href="#"><u>120</u></a>	Letter by USA as to Michael Binday, James Kevin Kergil, Mark Resnick addressed to Judge Colleen McMahon from Sarah E. McCallum (AUSA), dated 3/11/2013 re: Conference..discussion of the conflict issue that was raised by counsel for defendant Michael Binday in a March 7, 2013 letter. (mde) (mde). (Entered: 03/14/2013)
03/14/2013	<a href="#"><u>121</u></a>	Letter by USA as to Michael Binday, James Kevin Kergil, Mark Resnick addressed to Judge Coleen McMahon from Sarah E. McCallum dated 2/25/2013 re: The Government writes in response to the defendants' February 22, 2013 letter raising complaints regarding the trial subpoenas served on insurance companies in this case and demanding (1) a court conference; (2) already denied permission to serve pretrial subpoenas with eight page long riders; (3) permission to serve yet further sweeping subpoenas and (4) permission to transform the previously issued trial subpoenas into tools for a fishing expedition. No conference is needed, and the demands for relief should be denied. (dnd) (Entered: 03/14/2013)
03/14/2013	<a href="#"><u>122</u></a>	Letter by Michael Binday as to Michael Binday, James Kevin Kergil, Mark Resnick addressed to Judge Coleen McMahon from Michael C. Miller dated 2/22/2013 re: Counsel writes on behalf of all defendants to request a hearing with the Court at its earliest convenience and to seek appropriate relief for the conduct described in this letter. Our request is prompted by the fact that the Government has just acknowledged for the first time that it has made no effort to collect electronic data, including emails, responsive to the trial subpoenas that the Government served on the relevant insurance companies in lieu of the Rule 17(c) subpoenas sought by defendants. (dnd) (Entered: 03/14/2013)
03/14/2013	<a href="#"><u>123</u></a>	Letter by Michael Binday as to Michael Binday, James Kevin Kergil, Mark Resnick addressed to Judge Coleen McMahon from Michael C. Miller dated 2/26/2013 re: Counsel writes on behalf of all defendants to reply to the Government's February 25, 2013 letter, which responded to our February 22, 2013 letter requesting a conference with the Court at its earliest convenienceand seeking other appropriate relief ("Government Response"). The Government Response provides no basis for denying the defendants' request for appropriate relief arising out of the Government's failure to seek electronic data from any of the alleged insurance company "victims."... (dnd) (Entered: 03/14/2013)
03/14/2013	<a href="#"><u>124</u></a>	Letter by Michael Binday as to Michael Binday, James Kevin Kergil, Mark Resnick addressed to Judge Coleen McMahon from Michael C. Miller dated 3/4/2013 re: Defense counsel writes on behalf of all of the defendants to notify the Court that the defendants are in discussions with most of the insurance companies involved in this matter regarding a) their compliance with theGovernment's trial subpoenas and the defendants' Rule 17(c) subpoenas (the "Subpoenas"), b) the issues raised in their various motions to quash the Subpoenas, and c) options for developing joint proposals for narrowing the issues in dispute. (dnd) (Entered: 03/14/2013)

# Exhibit 3

SDNY CM/ECF NextGen Version

+

← → ↻ 🏠

https://ecf.nysd.uscourts.gov/cgi-bin/Dispatch.pl?106

CM🏛️ECF

Civil ▾ Criminal ▾ Query Reports ▾ Utilities ▾

**Replies, Opposition and Supporting Documents**  
[1:16-cv-06287-KPF Castillo Marcelino et al v. 374 Food Inc. et al](#)

CASREF,ECF,MEDTFR7

Pick Filer

[Collapse All](#)

[Expand All](#)

+ 374 Food Inc. dft

+ Domingo Castillo Marcelino pla

+ Domingo Castillo Marcelino pla

+ Michael Faillace misc

+ Hayim Tsadok dft

+ Tiran Tsadok dft

Select the filer.

Select the Party:

374 Food Inc. [dft]

Castillo Marcelino, Domingo [pla]

Castillo Marcelino, Domingo [pla]

Faillace, Michael [misc]

Tsadok, Hayim [dft]

Tsadok, Tiran [dft]

Next

Clear

New Filer